

The Islamization of the State:
A Framework and Case Study in Malaysia

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This thesis attempts to provide a framework to study the Islamization of the state in Malaysia; a successful result of which can be used to approach the study of Islamization in other Muslim-majority countries. It postulates and examines four critical factors: the roles of electoral politics, the judiciary, religious bureaucracy, and non-state actors. Electoral politics in Malaysia is dominated by the country's biggest political parties, UMNO and PAS. Through competition and cooperation, they were the catalysts for the rise of political Islam and the Islamization of the society, especially after the 1980s. From the beginning, there has been a heated debate about the status and role of Islam in Malaysian politics. The country's constitution provides for Common Law while stating that Islam is the religion of the federation. The matter became more delicate when the Constitution was amended in 1988 to effectively establish a dual-law system consisting of Civil Court and Sharia Court. This hybrid judiciary system led to a couple of controversial court rulings regarding the position of Islam, which sparked public protests. The religious bureaucracy and non-state actors are also significant factors that have entrenched Islamic-oriented reforms in the public sphere. All of these four factors combined to form a framework to explain the Islamization of the state in Malaysia.

Introduction

This thesis is a study of the process of the Islamization of the state in Malaysia. More accurately, it attempts to provide a framework to explain the crucial factors that explain the rise of Islamization in Malaysia. Although it focuses on Malaysia as a case study, it is hoped that the proposed framework could be utilized to explain the process of Islamization in other Muslim-majority countries.

The study is particularly important in this period of intense debates about the future of political Islam. The Muslim Brotherhood had a brief rule in Egypt before it was ousted in a military coup, Indonesia's Aceh passed a strict Sharia law last year, and in most Muslim-majority countries all over the world, political Islam continues to play a vital role. We cannot ignore political Islam if we wish to understand Muslim-majority countries. And until we understand the process by which a state becomes Islamized and the means adopted by political Islam, we would not be able to comprehend the past or predict the future of political Islam in many Muslim-majority countries.

Specifically, this thesis will analyze the causal factors of the Islamization of the state in Malaysia. The growing influence of Islam in the state is a cause for concern to many in Malaysia.

To begin with, we need to equip ourselves with the vocabularies of political Islam, Islamization and the Islamic State. The conventional attributes of an Islamic State are the laws, policies, politics, and an administrative system based upon and derived from the Quran and Sunnah (the way of the Prophet Muhammad). We see these attributes in Malaysia today. The laws, policies,

and politics of Malaysia are increasingly influenced by Islam. The state has been “Islamized” to the extent of imposing its version of Islam on the society. The state, which originally followed the British model (Common Law and separation of power), was swayed to control political, social, and personal life based on the guidance provided by Islam. I call this “the Islamization of the state”.

The rise of Islam as a crucial vote-swinging factor in elections is exemplified by the fact that politicians from both sides never fail to stress the importance of Islam and how much the other party has strayed from “true” Islamic practices in each successive elections. The prevalence of Islamic laws, growing powers of state religious agencies, expansion of the Sharia court, and observable Islamic outlook in society norms testify to the tide of Islamization in Malaysia.

Though public opinion surveys only began in the 2000s, they provide a good indication of the growing influence of Islamization in recent times. In 2006, a survey showed that three quarters of the Malay-Muslims in Peninsular Malaysia think that Malaysia is an Islamic state.¹ Under the same survey, 98% felt that Malaysian Muslims should not be allowed to change their religion and 77% said the current Sharia laws are not strict enough. Interestingly, when asked which identity they would choose if they can only choose one, 73% chose Muslim, 14% chose Malaysian, and 13% chose Malay. This reflected a stronger attachment to their religious identity compared to nationality and race. More recently, another public opinion poll suggested that an increasing number of Malays want a Prime Minister with “Islamic credentials” over any other quality.² Pew Research Center also found that 86% of Malay Muslims favor making Islamic law

¹ "Poll Shows 73% Think We Are Islamic State." *The Sun Daily*, September 6, 2006.

² "Poll: Malays Want PM with Islamic Cred." *The Malay Mail Online*, March 14, 2015.

the official law in their country.³ Under the same survey, over 60% (a figure higher than Muslims in Indonesia and Thailand) agreed that Sharia laws should include corporal punishments for theft, stoning for adultery, and death penalty for leaving Islam.

The question is, what gives rise to these developments? When and how did it occur? I argue that these developments are causes of the Islamization of the state. This thesis posits the Islamization of the state as the dependent variable and the problem (effect) that we wish to examine. We then examine four independent variables that explain the problem (cause): the role of electoral politics, the judiciary, the religious bureaucracy, and the non-state actors. Electoral politics is argued to be the main factor which influences the other three factors. Thus, the judiciary, religious bureaucracy, and the non-state actors can also be considered as intervening variables in the sense that they are extensions of the first factor (electoral politics), but are also sufficiently developed to become influential factors of their own in the latter stages.

The value of Islam as a political tool has increased exponentially since independence. Malaysia's two largest Malay-Muslim political parties engage in outbidding to attract voters based on Islamic grounds and credentials. A constitutional amendment in 1988 gave the Sharia court full control over Muslim affairs by virtually ruling that the civil court, including the country's highest court, has no jurisdiction over matters pertaining to Islamic affairs. Even in cases where freedom of religion and freedom of speech are concerned, the Sharia court now has the ultimate say in cases involving Muslim parties. The religious bureaucracy is a powerful group which coordinates the propagation of official Islamic doctrines and curbs deviant teachings. Islamist activists are increasingly loud in demanding the supremacy of Islam.

³ "The World's Muslims: Religion, Politics, and Society." Pew Research Center, Washington, D.C. 30 April 2013.

Malaysia is an ideal case study because it embodies the types of questions we should be asking about Islamization and political Islam. The disputes surrounding the role of Islam in everyday life and the Islamic State status make Malaysia a compelling case precisely because of those uncertainties. If Malaysia was a secular country during its foundation, why and how did it transit to a state of uncertainty and allow the Islamization of the society? If it was designated as an Islamic State, why did the founders provided for secular common law and incorporated Westminster's parliamentary democracy, instead of a theology governed by Sharia law? Even more interesting is that if it turns out to be a hybrid state, then we would be able to study how Islamist and secular policies co-opted or/and conflicted with each other.

We will first need to learn some historical background to make sense of our case study. I provide a brief summary of the demography and population in Malaysia, as well as the local context in which Islam first made its mark in the Malay Peninsula.

Then, we will take a cursory overview of the literature review, in which we survey past research and contributions that were done on this subject. Numerous authors have provided immense contributions to the subject; among others are Farish Noor, Julian Lee, Maznah Mohamad, and Chandra Muzaffar. By looking at political Islam and Islamization through different angles, they provide us with multiple perspectives which enable us to gain a more holistic understanding of the issues at stake. Farish Noor's historical study of the biggest Islamist party in Malaysia is a scholarly achievement matched only by John Funston's classic study of UMNO and PAS. Julian Lee looked at the role of the judiciary and its impact on the Islamization discourse. Maznah provided a critique of the ascendance of bureaucratic Islam in which he argued that the centralization of Islamic bureaucracy and federal-based Islamic institutions enable the state to control, restructure, and spread Islam in the society. Chandra analyzed the resurgence of Islamic groups and non-state actors and how they managed to steer the public discourse in an

Islamic direction. Existing literature offers various single-issue and isolated analyses. What remains to be offered is a broad framework which explains the overall process of Islamization of the state in Malaysia which integrates the various analyses done and is able to propose how the causal factors are linked with each other.

Next, I will explain the methodology and research design of this paper and propose a few theories about Islamization in Malaysia. This research adopts the case study approach to examine the trend of Islamization and political Islam in Malaysia from the 1950s to the present. A case study approach focuses on a specific country or other instance of a general phenomenon. In our case, we will be looking at the factors that led to the Islamization of the state in Malaysia.

My main argument consists of four explanatory factors that led to the Islamization of the state in Malaysia; electoral politics, the judiciary, religious bureaucracy, and non-state actors. Each of the factors will be briefly described below, then we will apply them in our case study and empirical evidence.

Electoral politics is centered round the competitive political contests between two of Malaysia's biggest political parties, UMNO and PAS. I argue that this is the major factor that raises the stakes in political Islam and intensifies the Islamic discourse in Malaysia, which led to the Islamization of the state.

Electoral politics has had an impact on the next three factors. In 1988, UMNO was facing a political crisis. During the same period, the UMNO-led government amended the Constitution to separate the jurisdiction between civil and Sharia courts. Ostensibly done to clear the confusion between the jurisdiction of the two courts, the 1988 constitutional amendment could also be

argued to be a political strategy to appease voters in the midst of a political crisis. In other words, electoral politics played a significant role by providing an incentive to change the status and role of the judiciary. In the long run, the constitutional amendment and a number of court rulings since that amendment succeeded in expanding the jurisdiction of Sharia courts and giving Islam a greater profile and leverage in public affairs, thus rendering greater invincibility to the Islamic laws and greater visibility to the Islamization of the state.

Electoral politics was also an important cause for the creation and expansion of the religious bureaucracy. The religious bureaucracy (including state-owned religious institutes, centers, and agencies) was created when the state wanted to monopolize and exercise control over the teachings of Islam, co-opt the Islamists, and win votes. I emphasize that the religious bureaucracy created by the government became more influential than intended and changed into a powerful lobbyist that is able to regulate and impose their version of Islam on public affairs and thus, further entrenching Islamization of the state.

Electoral politics emboldened non-state actors such as the Islamist activists and the non-governmental organizations (NGO). It also provided the catalyst for waves of political Islam and Islamization since the 1980s. A resurgence of Islamist activists after the Iranian Revolution created a pressure group that adopts political Islam, pushes for the supremacy of Islam in Malaysia, and therefore, facilitates the Islamization of the state.

This thesis ends with a conclusion. Ultimately, it seeks to incorporate original insights and contributions by past authors into a single framework which can broadly explain and link the causal factors of the Islamization of the state to each other.

Historical background

Since Malaysia is a multiracial country, political discourse is inevitably dominated by race and religion. Both are vital factors in shaping the course of the country, especially when race and religion have a high correlation in the Malaysian context. According to the Population and Housing Census 2010 (which is carried out every 10 years), 61.3% of the population practice Islam, 19.8% practice Buddhism, 9.2% Christianity, 6.3% Hinduism and 1.3% practice Confucianism, Taoism and other traditional Chinese religions. 0.7% declared no religion and the remaining 1.4% practised other religions or did not provide any information.⁴ The Federal Constitution states that a Malay is, among other criteria, someone who practices Islam. In addition, federal and state laws do not allow Muslims to convert to other religions or renounce their faith. Attempts to do so result in apostasy which carries heavy punishment. Thus, the constitution and laws effectively guarantee that, on paper, 100% of the Malays practice Islam. For comparison, 83.6% of the Chinese practice Buddhism and 86.2% of the Indians practice Hinduism.⁵ The non-Malay bumiputra community, especially concentrated in East Malaysia, is more evenly divided between Christianity (46.5%) and Islam (40.4%). Yet, Malaysian politics has always tended to be peninsula-centric. Peninsular Malaysia (or West Malaysia, also formerly known as Malaya) often dominate the agenda of Putrajaya, the administrative capital. Thus, we will naturally be focusing on the peninsula's mainstream politics, which brings us to the state of Islam in this country.

The strand of Islam practiced in Malaysia is the Shafi'i version of Sunni theology. The constitution states that Islam is the religion of the federation, while allowing for freedom of religion and secular common law. This has led to much dispute regarding the role of Islam in

⁴ "Population Distribution and Basic Demographic Characteristics". Department of Statistics, Malaysia. p. 82.

⁵ Ibid.

Malaysia and the status of whether Malaysia is an Islamic or secular state. We will revisit the dispute in the later part of this paper. The dispute about whether Malaysia is an Islamic state is even more confusing when the two major Malay-Muslim political parties have different views as to what constitutes an Islamic state. UMNO and PAS have distinct understanding as to the concept of an Islamic State. Their differences are most clearly illustrated in two documents, which are an official government document called *Malaysia Adalah Sebuah Negara Islam*, and a party document called *Dokumen Negara Islam*.⁶ Basically, for UMNO, it is sufficient to have Malaysia's political power concentrated in the hands of Muslim leaders together with the existence of Islamic state agencies and laws. In 2001, former Prime Minister and UMNO President Tun Dr. Mahathir Mohamad publicly declared that Malaysia is already an Islamic State. This caught many observers by surprise, and both Islamists and non-Islamists were quick to counter his claim. For PAS, Malaysia is currently not an Islamic State and it is their goal to create such a state in Malaysia. They envisioned an Islamic State modeled based on the caliphate set up by the Prophet Muhammad under the Constitution of Medina. This version of the Islamic State is a type of government in which the primary basis is the enforcement of Sharia, dispensation of justice, and maintenance of law and order.⁷

Some historical context about Islam in Malaysia is needed before we begin. Peninsular Malaysia was a popular stopping point along a major trade route. Many ships passed by the Straits of Malacca and the South China Sea, and during their travels, they made pit-stops at peninsular ports. Because of the monsoon wind, travelers often had to stay for a period of time at those places before continuing their journey. Gradually, there were sojourners and small

⁶ The reference is to the UMNO-led government's official document, *Malaysia Adalah Sebuah Negara Islam*, and PAS's party document, *Dokumen Negara Islam*. See also *Malay Politics: An Interpretation on the "Islamic State Concept" of UMNO and PAS*.

⁷ Ashgar, Ali (2006). *The State in Islam: Nature and the Scope*. Pinnacle Technology. p. 91

settlements by these traders. And so it was, Islam came by the way of these traders. Indian and Arab Muslims are credited with introducing a new religion to the Malay Archipelago. From the 14th to the 18th century, kings embraced Islam and the masses were converted. From that moment on, the Malay world never looked back.

Up until the early 20th century, the salient dispute among Malay-Muslims was the divide between Kaum Muda (the Young Group or the modernists) and Kaum Tua (the Old Group or the traditionalists). The traditionalists are typically religious figures aligned with the establishment, namely the Malay feudals, village heads, and royal families. Many of the Kaum Muda are youthful idealists and reformers who challenged the status quo. They utilized madrasahs (schools or colleges for Islamic instructions) to preach their ideas and distribute progressive journals, magazines, and newspapers. This is probably the most significant influence by the Kaum Muda movement because they paved the way for others to form the first modern Malay socio-political association. The first Malay-Muslim political organization, Kesatuan Melayu Singapura (KMS) or the Malay Union of Singapore was formed in 1926.

Others soon followed in the footsteps of KMS and set up various associations in British Malaya. In 1938, a group of young Malays formed the Kesatuan Melayu Muda (Young Malays Association or KMM). The people in KMM would become key political leaders in Malaya (and later, Malaysia), and this included Ibrahim Yaakob (KMM founder), Ishak Haji Muhammad (future president of the Labour Party of Malaya and Pusat Tenaga Rakyat, or the Center of People's Power), Ahmad Boestamam (future president of Parti Rakyat Malaysia, or The Malaysian People Party), and Dr. Burhanuddin al-Helmy (future president of Parti Kebangsaan Melayu Malaya (PKMM), or The Malayan National Party of Malaya, and Parti Islam Se-Malaysia (PAS), or the Pan-Malaysian Islamic Party). They are considered by many as center-left politicians.

Dr. Burhanuddin is our first direct link between the ancient past of the Malay world and the current state of political Islam in Malaysia. It was during his presidency that PAS went from a loosely organized, rural-based political party to a force to be reckoned with in national politics. One of Dr. Burhanuddin's affiliates in PKMM, Asri Muda, also went on to become the fourth president of PAS.

In March and May 1946, two Malay congresses convened to discuss the opposition to the Malaya Union proposal.⁸ More than three dozen Malay associations gathered at the conventions and had decided to form an umbrella body called the United Malays National Organization (UMNO) on 11 May 1946. PKMM was originally part of the Malay associations within UMNO, but left after two months due to ideological differences.⁹

For PKMM followers, other nationalists, and Islamists, UMNO was not doing enough for the push of independence from the British and the plight of Malay-Muslims. They perceived a need to form an Islamist political party and mobilized to achieve that end. Two years after the formation of UMNO, in March 1948, Parti Orang Muslimin Malaya (Muslim People's Party of Malaya, also known as Hizbul Muslimin) was created. The then UMNO President, Dato Onn

⁸ The Malaya Union was a plan towards self-governance proposed by the British. For further details, see Purcell, Victor. "A Malayan Union: The Proposed New Constitution." *Pacific Affairs* (1946): p20-40.

⁹ UMNO, by virtue of its inclusiveness, contains membership from all ranks and files in the society. Most notably, it drew support from the aristocratic establishment. It is telling that the first four presidents of UMNO were all from aristocratic backgrounds; Dato Onn Jaafar (1946-1951) was the son of the first Menteri Besar of Johor, Tunku Abdul Rahman (1951-1971) is the prince of Kedah, Tun Abdul Razak (1971-1976) is the son of an aristocratic family, and Tun Hussein Onn (1976-1981) is the son of Dato Onn. The conservative character of UMNO is the polar opposite of PKMM's aspirations for radical change. It is only a matter of time before they split. What's interesting though is that the eventual excuse for the split is a trivial dispute over the colors of a flag.

Jaafar, labeled the Islamists as a threat coming from mountains and jungles. Thus begins the rivalry between UMNO and Hizbul Muslimin, the predecessor of PAS, which continues till today.

Four months later, an event beyond the control of the Islamists and center-left politicians would doom their fate for the next several decades. Rogue members of the Malayan Communist Party (MCP) killed three European plantation managers at Sungai Siput, Perak.¹⁰ The colonial authority used this as a pretext to declare the Malayan Emergency (1948-1960). Political leaders and activists with the slightest ties to communist, leftist and Islamist activities which are opposed to the order of the day were subsequently arrested. PKMM and other leftist political parties were banned, and the leaders of PKMM and Hizbul Muslimin were detained. This repression crumbled the alternative movements during the crucial pre-independence period and ultimately paved the way for UMNO's dominance in the political arena for the next five decades. It is also noteworthy to point out that the British never alienated Islam the way the Dutch did in Indonesia.¹¹ Recognizing the catastrophic mistake done by other colonial masters when they repressed Islam and thus provoked response from the masses, the British co-opted Islam's establishment. Islam and the royalty were never explicitly forced or threatened, in fact they were given symbolic statuses, ceremonial roles, and huge paychecks.¹² The construction of the royalty as the protector of religion was reinforced and entrenched by the British and its effects persist until the present day.

¹⁰ MCP leader Chin Peng denied ordering the killings of the three European planters. In any case, the Malayan Communist Party did advocate the use of violent means to get rid of the colonial masters. See also: "Obituaries: Chin Peng." *The Telegraph*, September 16, 2013.

¹¹ For an excellent discussion on this topic, refer to Amoroso, Donna J. *Traditionalism and the Ascendancy of the Malay Ruling Class in Malaya*. NUS Press, 2014.

¹² Ibid.

Being the most visible Malay-Muslim political party left at that time, UMNO was keen to draw support from religious groups. It sponsored the first Ulama Congress and thereby elevated its Islamic credibility and outlook. UMNO may not have realized this at that time, but it was about to create its own nemesis.

On 24 November 1951, at the third Ulama Congress, this group of religious figures made up of ulamas, imams and conservative nationalists decided to reorganize themselves under the banner of Persatuan Islam Se-Malaya (Pan-Malayan Islamic Party), also known as PAS.

Its first president was Haji Ahmad Fuad, who was also UMNO's head of Religious Affairs Bureau, although the membership was made up of both UMNO and non-UMNO people. 1953 was a turbulent year for the new organization. Differences with rivals in UMNO, disputes during the National Convention to discuss citizenship and independence, and the internal division of whether to side with Tunku Abdul Rahman or Dato Onn Jaafar led to a vote during a special general meeting. Haji Fuad Hassan resigned as president following the defeat of his proposals. He left PAS and teamed up with Dato Onn in the newly created Parti Negara (which did not last long), while several prominent PAS members returned to UMNO. Thus, the split was now complete. UMNO and PAS would become the two most influential political parties in the new nation, Malaysia.

For the next several decades, these two political parties dominated the Malay-Muslim votes. Consequently, they constantly shape and respond to Malay-Muslim voters' concerns, including on matters pertaining the religious affairs. Religion is a very important part of the Malay-Muslim identity, especially after the Iranian Revolution. Although the ideals of political Islam have developed since the time of the Prophet Muhammad, the Caliphates, and the foundation of the Muslim Brotherhood, the success of Islamists in Iran provided an impetus to the increasing

levels of religiosity and Islamist influence in the country's political discourse during the 1980s. While it is true that both parties take cues from voters' increasing religiosity, the two parties are also the driving forces that shape political discourse and raise the stakes of political Islam. Consequently, a series of state-driven Islamization was initiated and further intensified the Islamization race.

UMNO and PAS always competed for the same voter base, namely the Malay-Muslim votes. In their attempt to out-Islamize each other in order to appeal to Muslim voters who prioritize their religious identity, they raise the value of Islam as a political weapon by outbidding each other on religious rhetorics and policies. In other times, the two parties cooperated due to unfavorable political circumstances for both, and passed some Islamic policies.

Literature Review

I attempt to incorporate original insights and the existing literature into a viable framework which can broadly explain the Islamization of the state in Malaysia. This thesis aims to provide a comprehensive framework through which beginners and scholars alike can view the process of Islamization in Malaysia.

The subject of religions forcing their way through politics and shaping the discourse of a society is far from new. Comparative research has been done to provide insights into the rationality of religious behaviour, the weight of path dependence in reinforcing religious values, and the

aspects of religious identity and vitality.¹³ Given the revival of religious fundamentalism across the world, scholars have been quick to assert the importance of serious study on the relationship between religion and politics, which could help us develop theories of religious political behavior and predict religious movements and uprisings.¹⁴

For example, the emergence of the Welfare Party in Turkey has sparked a huge interest in trying to understand or reconcile the compatibility of a strong Islamic party with a liberal democracy system.¹⁵ Scholars have also been studying the success of political Islam in the past two decades. In Tunisia, Egypt, and Indonesia, corrupted secular regimes have been pinpointed as the roots of successful Islamist political mobilization¹⁶. Political Islam has become increasingly salient in Indonesia, which is home to the largest Muslim democracy in the world since the fall of Suharto. Research experiments have been conducted to explain Islam's political advantage¹⁷. These are just a tiny fraction of the renewed interest in the study of religious political activity and political Islam across the world.

This paper concentrates on the case study of Malaysia, though by no means the findings of this research should be confined to Malaysia. It is hoped that the research findings can be applied to comparative literature in other Muslim-majority countries as well.

¹³ Bellin, Eva. "Faith in Politics: New Trends in the Study of Religion and Politics." *World Politics* 60, no. 2 (2008): p315-347.

¹⁴ Gill, Anthony. "Religion and Comparative Politics." *Annual Review of Political Science* 4, no. 1 (2001): 117-138.

¹⁵ Onis, Ziya. "The Political Economy of Islamic Resurgence in Turkey: The Rise of the Welfare Party in Perspective". *Third World Quarterly*. Vol. 18, No. 4 (Sep., 1997), p. 743-766.

¹⁶ Pepinsky, Thomas B. "Political Islam and the Limits of the Indonesian Model." *Taiwan Journal of Democracy* 10, no. 1 (2014): 105-121.

¹⁷ See for example, Pepinsky, Thomas., Liddle, William., and Mujani, Saiful. "Testing Islam's Political Advantage: Evidence from Indonesia." *American Journal of Political Science* 56, no. 3 (2012): p584-600.

In Malaysia itself, there is an abundant supply of literature on this subject matter. Classic studies on Malay-Muslim political life and the role of political Islam have been well documented by established scholars.¹⁸

In the more modern period, Chandra Muzaffar attempted to explain Islamic resurgence through a sociological perspective.¹⁹ Through this perspective, he managed to analyze the emergence of an urban industrial class which contributed to the growth of Islamic activism and organizations in cities throughout the 1970s and beyond. Julian Lee examined the increasing political and social profile of Islam in Malaysia.²⁰ With a focus on jurisdictional conflict and the impact of activism, his paper was influential in placing the process of Islamization within the legal context and in court disputes. Meanwhile, Gordon Means' historical approach in describing political Islam in Malaysia placed an emphasis on how ethnicity plays a major part in shaping Islamist discourse.²¹ In another paper, he analyzed the changing role of Islam and its consequences on the political landscape in Malaysia.²² Maznah Mohamad took a different angle by positing that the ascending force of Islamization is mainly driven by the religious administrative and legal bureaucracy, rather than political actors.²³ This is a rare contribution

¹⁸ For example, Funston, John. "Malaysia's Tenth Elections: Status Quo," Reformasi" or Islamization?." *Contemporary Southeast Asia* (2000): p23-59. Also, Roff, William R. "Studies on Islam and Society in Southeast Asia." *Hawaiian Journal of History* 48 (2014).

¹⁹ Muzaffar, Chandra. "Malaysia: Islamic Resurgence and the Question of Development." *Sojourn: Journal of Social Issues in Southeast Asia* (1986): p57-75.

²⁰ Lee, Julian CH. *Islamization and Activism in Malaysia*. Institute of Southeast Asian Studies, 2010.

²¹ Means, Gordon Paul. *Political Islam in Southeast Asia*. Lynne Rienner Publishers, 2009.

²² Means, Gordon P. "The Role of Islam in the Political Development of Malaysia." *Comparative Politics* 1, no. 2 (1969): p264-284.

²³ Maznah Mohamad (2010), The Ascendancy of Bureaucratic Islam and the Secularization of the Sharia in Malaysia, in: *Pacific Affairs*, 83, 3, p505–

which traces the expansion of government bureaucracy and state religious authorities, and examines their impacts on Islamization. These bureaucratic actors are often overlooked in the mainstream literature on political Islam and Islamization in Malaysia.

Mohamad Abu Bakar looked at foreign influences and the global context in describing the wave of political Islam and Islamist-oriented discourses that hit the country after the Iranian Revolution.²⁴ This study provides an insight into the relationship between Islamists in Malaysia and Iran. The post-Iranian Revolution period was euphoric time for Islamists around the world as it served as a model that proved political Islam *can* work and provided the impetus for waves of Islamization in the 1980s.

Hanif Hassan used the "State-in-Society" approach to provide a multi-layered analysis of the increasing level of religiosity.²⁵ His colleague in Singapore, Joseph Liow, focused on the political chess game between UMNO and PAS.²⁶ And of course, no study on political Islam in Malaysia is complete without Farish Noor's immense contribution through his study of the most influential Islamist political party in Malaysia, Parti Islam Se-Malaysia (PAS).²⁷ All three provided an in-depth overview of Islamization and political Islam in Malaysia. They focused on the two major

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²⁴ Bakar, Mohamad Abu. "Islamic Revivalism and the Political Process in Malaysia." *Asian Survey* (1981): p1040-1059.

²⁵ Hassan, Bin, and Muhammad Haniff. "Explaining Islam's Special Position and the Politics of Islam in Malaysia." *The Muslim World* 97, no. 2 (2007): p287-316.

²⁶ Liow, Chin Yong. "Deconstructing Political Islam in Malaysia: UMNO's Response to PAS's Religio-political Dialectic." (2003). See Liow, Chin Yong. "Political Islam in Malaysia: Problematising Discourse and Practice in the UMNO–PAS 'Islamisation Race'." *Commonwealth & Comparative Politics* 42, no. 2 (2004): 184-205., and Liow, Chin Yong. "Exigency or Expediency? Contextualising Political Islam and the PAS Challenge in Malaysian politics." *Third World Quarterly* 25, no. 2 (2004): 359-372.

²⁷ Farish Noor, *Islam Embedded: The Historical Development of the Pan-Malaysian Islamic Party PAS (1951-2003)* (Kuala Lumpur: Malaysian Sociological Research Institute, 2004).

Malay-Muslim political parties, UMNO and PAS, and the electoral contestation between the both.

These are excellent studies on the process of Islamization and political Islam in Malaysia. While these are significant papers on the subject, they are scattered and are either focused on a single issue, or had viewed the process from only one possible factor. What is lacking in literature is an overarching framework which integrates the distinct theories presented by past researchers. This thesis is written to fill that gap. By positing the Islamization of the state as the effect/dependent variable (the changes we see today, or the problem which we wish to examine), this thesis seeks to explain and link the four causal factors/independent variables (how the change occurred, or the factors which created the problem) that led to the Islamization of the state.

Research Theory

For a start, we need to provide working definitions for political Islam, Islamization and Islamic State. I agree with Dr. Chandra Muzaffar's view that the conventional attributes of an Islamic State are the laws, policies, politics, and an administrative system based upon and derived from the Quran and Sunnah (the way of Prophet Muhammad).²⁸ I posit political Islam as the attempt to establish such an Islamic State or/and exert influence in politics so that political, social and personal life is guided by Islam. I view Islamization as the process of Islamizing the society, especially by imposing Islamic worldviews, languages, and cultures on political discourse and to a larger extent, the society.

²⁸ Muzaffar, Chandra. "Malaysia: Islamic Resurgence and the Question of Development." *Sojourn: Journal of Social Issues in Southeast Asia* (1986): 57-75.

How are we to measure the trajectory of political Islam and the trend of Islamization in the society? I posit that political Islam can easily be seen by looking at the currency of Islam in general elections. The more salient it is and the more heated both parties are contesting the claim to be more Islamic than the other, the higher the currency of Islam and political Islam. Party platform, policy proposals, speeches and actions taken by party leaders that appeal to the voters based on Islamic grounds are testament to the currency of Islam in the electoral competition. Islamization of the society is determined by how much religion creeps into public life and how much control the religious authorities exercise over people's way of life.

My main argument in this paper consists of four factors that led to the Islamization of the state in Malaysia: the roles of electoral politics, the judiciary, religious bureaucracy, and non-state actors. Each of the factors will be briefly described below, then we will apply the hypotheses to our case study.

Electoral politics centers round the competitive political contests between two of Malaysia's biggest political parties, United Malays National Organization (UMNO) and Parti Islam Se-Malaysia (PAS). UMNO is the dominant partner in the ruling coalition, Barisan Nasional (BN), while PAS is the oldest opposition party in the country and currently a partner of the opposition coalition, Pakatan Rakyat (PR). While there are other influential political parties in Malaysia, the path of political Islam is driven by these two Malay-Muslim parties. Electoral politics provides incentive for each to out-Islamize the other in their scramble for votes. The logic is as follows: a significant number of Malay-Muslim voters are strongly attached to their religious identity and the party which can appeal to them based on that religious identity can swing their votes to its favor. As shown earlier, various public opinion surveys testified to this trend of growing demand for an Islamic State. When the political currency of Islam is raised through the actions of both

parties (and the increasing level of religiosity among the Malay Muslim voters after the 1980s), it became even more important to wrestle that expanding segment of the vote. The party which successfully outbids or out-Islamizes the other is more likely to obtain votes from the Malay-Muslim population. We will look at empirical evidence and observations from general elections to see how electoral politics between both parties, through competition and cooperation, elevated the currency of political Islam and provided an incentive to promote the Islamization of the state.

In terms of electoral politics, there are two measures of Islamization; rhetoric and policy. Since UMNO is the ruling party, PAS will more strongly rely on rhetoric while UMNO, since they have the ability to change policy, will strongly rely more on policy. The fact that Barisan Nasional practices a hegemonic coalition system in which UMNO is the dominant regime party only intensifies the electoral competition between UMNO and PAS. Since the coalition is dominated by UMNO, UMNO is particularly threatened by the rise of political Islam because it cuts into their own voter base. The Malay-Muslim voters also form the largest percentage of eligible voters. This means that when another Malay-Muslim party (such as PAS) wrestles away some of the Malay-Muslim voters based on religious grounds, UMNO has to try to outbid its opponent in order to woo back those voters. This is in contrast with non-Malay Muslim electoral politics. For example, if the Democratic Action Party (DAP was a spin-off from the People's Action Party after the split between Malaysia and Singapore in 1965) performs strongly in an election, UMNO does not see a need to respond to DAP's success and outbid DAP on secular democratic grounds. This "religious outbidding" argument may also apply in fully democratic settings in which two parties are competing for the same religious voter block, but it is especially relevant in semi-authoritarian systems when the ruling hegemonic party needs to monopolize the voters bank. And when Islam is seen as an important political currency, the parties involved engage in religious outbidding to maintain their hegemony.

Thus,

Proposition 1: Electoral politics is the critical factor that empowers political Islam and the Islamization of the state in Malaysia. Political parties attempt to outbid and out-Islamize each other and by doing so, they extend the role of Islam in personal, social, and political life. Competition and cooperation between political parties had also provided an incentive to amending the constitution in 1988, strengthening the religious bureaucracy, and appeasing Islamist activists.

Observable implications: If this is true, then we should be able to find instances in each election whereby the politics of Islam is a salient issue. We should also be able to observe how electoral politics led to the Islamization of the state by intensifying Islamic political discourse, elevating the role and status of Islam, expanding the reach of Islamist parties, and incorporating Islam in party rhetoric and policies.

Electoral politics then plays a significant role in expanding the jurisdiction of Sharia courts and giving Islam a greater profile and leverage in public affairs by providing an incentive to amend the Constitution. Traditionally, secular civil courts have the power to decide on most civil and criminal cases. The highest court in the country is the Federal Court. Sharia courts are to preside over Muslim private affairs, such as divorce cases. However, a constitutional amendment in 1988 decidedly turned things around by proclaiming that the civil court has no jurisdiction over any matter related to Islam and Sharia. Ostensibly done to curb confusion over jurisdictional boundaries between the two courts, the amendment basically nulled any authority

and challenge by the civil court over the sharia court. Since the amendment, a number of high profile controversial cases have stirred heated debates concerning the status of Islam in Malaysia. Undeniably, the state of the judiciary since the 1988 constitutional amendment renders greater visibility and credibility to the Islamization of the state.

Thus,

Proposition 2: Electoral politics influences the state of the judiciary, which then became a crucial factor that strengthens the Islamization of the state in Malaysia. Court rulings and amendments to constitutional and legislative laws weakened the secular civil court's influence, and by empowering the jurisdiction and status of the Sharia court, they extended the role of Islam in personal, social, and political life.

Observable implications: If this is true, then we should be able to find an important constitutional amendment which was partly influenced by electoral politics and that amendment must have led to several court rulings and judicial declarations that facilitated the Islamization of the state. We should also be able to observe how matters concerning the judiciary had successfully pushed for greater Islamization of the state as a result of the ensuing separation of jurisdiction, media coverage, and legitimization and expansion of Sharia courts.

In discussing the role of the bureaucracy, I argue that electoral politics helped create and expand the religious bureaucracy, such as state-owned religious institutes and agencies. I emphasize the expansion of state religious authorities because their growing powers are testament to the depth and extent of the Islamization of the state. I also briefly touch on the

agency problem in which the religious bureaucracy created by the government has become a powerful lobbyist.

Proposition 3: Electoral politics gave rise to the religious bureaucracy. As the increasingly centralized and powerful religious bureaucracy actively seeks to promote and enforce religious ideals and policies upon the society, it helps to reinforce the Islamization of the state.

Observable implications: If this is true, we should be able to find specific instances of the strengthening of the religious bureaucracy in the midst of intense political competition between UMNO and PAS. We should also be able to detect the burgeoning of the religious bureaucracy and its abilities to implement and impose its version of Islam upon the people.

After the Iranian revolution and the growing popularity of political Islam, electoral politics provided an incentive for both the establishment and opposition to co-opt Islamist non-state actors such as Islamist activists, non-governmental organizations (NGO), and student movements. The surge of Islamist activists who clamored for the supremacy of Islam and Islamic laws were especially influential in demanding for a greater role for Islam in policy making and thus, helped to promote the Islamization of the state.

Proposition 4: Electoral politics provides an incentive for UMNO and PAS to co-opt Islamist non-state actors such as Islamist activists, NGOs, and student movements, which then helped to promote the Islamization of the state.

Observable implications: If this is true, we should be able to find prominent Islamists who were co-opted into UMNO and PAS, and how these non-state actors managed to act as a pressure group for greater Islamization.

Research Design and Methodology

This research relies on the case study of Malaysia's political Islam and its process of Islamization from the 1950s to the present. In comparative politics, a case study is an in-depth study of a particular country or other unit of analysis as an instance of a more general phenomenon. In our case, we will be looking at the factors that empower the tide of Islamization in Malaysia. Although the research's case study is narrowed down to Malaysia, it is hoped that the framework provided by this paper can also be tested elsewhere in other Muslim-majority countries.

There are several benefits in using the case study research design. Firstly, it enables us to understand a complex issue through detailed contextual analysis of a particular problem and its causal factors. Secondly, we can apply a variety of methodologies and make use of numerous sources to investigate the research problem. For example, we can use empirical evidence such as electoral data, primary evidence such as court rulings on controversial cases, and findings by past scholars on relevant topics. Thirdly, we can extend the experiences, applications and findings to what is already known through previous research. And fourth, the case study approach incorporates historical elements that are necessary for trend analysis and interpreting the research problem in a larger context.

We are also able to make use of "the most similar systems" approach through our comparison of elections within Malaysia. In such an approach, researchers typically compare two cases that are very similar in their context conditions, but differ on one explanatory variable (e.g., the competitiveness of elections). Then, by comparing outcomes across those two cases we are

able to test whether the differences on the independent variable meaningfully affect the difference in outcomes. As we look at all fourteen elections in Malaysia, we are able to elaborate on the explanatory powers of the independent variables on the Islamization of the state and examine which variable is more salient than the others in a specific context and time.

The First Factor: Electoral Politics between UMNO and PAS

There is no doubt that the biggest push factor of Islamization in Malaysia is the political contest between two of the nation's most influential political parties, United Malays National Organization (UMNO) and Parti Islam Se-Malaysia (PAS). Members of both parties are almost exclusively Malay-Muslims.²⁹

Election is not the only thing that matters in a democracy, but it sure is a huge part of democracy. Malaysia is routinely cited as a semi-authoritarian state or a semi-democracy.³⁰ Power is concentrated in the executive branch and the UMNO-Barisan Nasional government has never lost any elections since independence. Freedom House cited Malaysia as "partly free."³¹ Electoral fraud and structural obstacles designed to block the opposition from winning power, as well as a string of religiously intolerant and repressive actions, contributed to Malaysia's downward spiral in the Freedom House ranking.

²⁹ The exceptions are non-Malay Bumiputera and non-Malay converts in UMNO and PAS. Nevertheless, these minorities are still overwhelmingly Muslim. See UMNO and PAS party constitutions.

³⁰ For example, see Slater, Dan. "Iron Cage in an Iron Fist: Authoritarian Institutions and the Personalization of Power in Malaysia." *Comparative Politics* (2003): 81-101. And: Case, William. "Semi-democracy in Malaysia: Withstanding the Pressures for Regime Change." *Pacific Affairs* (1993): 183-205

³¹ "Malaysia" in Freedom in the World 2014. *Freedom House*, n.d. Web. 13 Apr. 2015.

However, electoral politics continues to be an essential feature of Malaysian democracy. I posit that electoral politics is a critical factor which enables the Islamists to entrench their agenda. The push for Islamization would not turn out the way it did without the presence of electoral politics.

No analysis of the role of political Islam and the process of Islamization in Malaysia is complete without examining key moments in the political contest between the two giants. In this section, we will look at the historical competitions and election campaigns in Malaysia. I argue that we will find evidence and strong reasons to believe that Islamization policies are brought about close to election contests. The rhetoric of political Islam would be stacked up whenever there is an internal upheaval in UMNO or a heated campaign between both parties. Through electoral politics, political Islam and Islamic political discourse are facilitated by both competition and cooperation; the result of which led to the increasing Islamization of the state.

We will examine this by tracing the trends from the first general election to the most recent one; what were the issues at stake, how were the campaigns contested, the political moves and countermoves, and the policies put in place during heated electoral debates. Political scientist and historian Dr. Farish Noor has contributed tremendously to this field of historical analysis, and we will borrow extensively from his groundbreaking research on PAS and consequently, political Islam in Malaysia.³²

³² Dr Farish Noor's two volume study of the most influential Islamist party in Malaysia, PAS, is the definitive reference to understand the subject. Recently, he has also published a condensed and updated version of that study. See Farish Noor, *Islam Embedded: The Historical Development of the Pan-Malaysian Islamic Party PAS (1951-2003)* (Kuala Lumpur: Malaysian Sociological Research Institute, 2004) and Farish Noor, *The Malaysian Islamic Party PAS 1951-2013: Islamism In a Mottled Nation*. Amsterdam: Amsterdam University Press, 2014.

Before we begin, some brief background on Malaysia's political system should be provided. Malaysia is formally a constitutional monarchy. Its three branches of government - executive, legislative and judiciary - and the Common Laws are derived from the British Westminster system. General elections are held no longer than five years apart to elect the Members of Parliament at the federal level and the State Assemblymen in 13 state assemblies.

As described earlier in the historical background section, Malay-Muslims form the majority of the population and Islam has grown in the Malay Peninsula since the 13th century. The two big parties, UMNO and PAS, have also been introduced earlier in the paper. The dynamic relationship between these two parties forms the core of the discussion in this section. From 1955 to 2015, UMNO and PAS have continued to shape the Islamic discourse and the country's fate through their dominance of Malay-Muslim politics.

1955 and prior. As we have seen earlier, there is a historical continuity in the role of Islam in public affairs. Political Islam did not just sprout from nowhere after Malayan independence and transformed itself into a powerful political currency. The roots of political Islam can be traced back to the coming of Islam to the Malay Archipelago. Having embraced the religion, the Malay monarchs exercised control over the propagation of Islam to their subjects and introduced a slew of customs in accordance to the religion. This is nothing new, however. In the past, when the rulers adopted Hinduism and Buddhism, the Malay world was enriched with Hindu-Buddhist rituals. Priests were given influential positions and yielded a huge say regarding what is permissible and not in public life. In fact, their roles can be said to be similar to present day *imams*, *ustazs* and *ulamas*. Same masks, different colors. What sets Islam apart from the other dominant religions in the past were the historical developments that took place while Islam is the dominant religion.

At least two factors had empowered political Islam prior to the first federal election in 1955: interaction with the colonial powers and the struggle for independence. The British helped to entrench Islam and reinforce its influence on public affairs. The British co-opted the Malay ruling class and used the native customs to their advantage. One example is the reorientation of Malay rulers as the symbolic protectors of the Malay race and religion.³³ The second factor, the struggle for independence, provided the impetus for necessary discourse in political Islam. Malay-Muslims who strongly identified with Islam mobilized to pressure the colonial government for a more favorable settlement with regards to the position of Malays and the role of Islam in the creation of a new country.

The first immediate outcome of the empowerment of Islam through politics is the birth of the nation's first official Islamist political party. As noted earlier in the text, UMNO was directly responsible for facilitating the creation of PAS. Eager to boost its own Islamic credentials and expand its appeal to the Islamic base, UMNO sponsored the first conference of *ulamas*. The *ulamas'* third assembly had voted to reorganize themselves under the banner of a political unit, which eventually became the Pan-Malaysian Islamic Party (PAS).

Thus by the time the federal election loomed in 1955, UMNO and PAS were distinct entities. Dr. Farish Noor noted that PAS was formally registered as a political party just one day prior to nomination day.³⁴

³³ Amoroso, Donna J. *Traditionalism and the Ascendancy of the Malay Ruling Class in Malaya*. NUS Press, 2014.

³⁴ Farish Noor, *Islam Embedded: The Historical Development of the Pan-Malaysian Islamic Party PAS (1951-2003)* (Kuala Lumpur: Malaysian Sociological Research Institute, 2004) p87.

The 1955 federal election was held to elect members to the Federal Legislative Council, which was previously appointed by the British High Commissioner. The eventual representatives were also the “pro-tem government” and led the talks for Malayan independence. The Alliance, consisting of UMNO, MCA (Malaysian Chinese Association) and MIC (Malaysian Indian Congress), swept to a stunning victory. They collected 51 out of 52 available seats. Despite being a newcomer to the political scene, PAS was the only party not affiliated with the Alliance to win a seat in that election. This may have been the foreshadow of things to come.

Major takeaways: In its attempt to appeal to the Islamic voter base, UMNO helped to organize the *ulama* conference and thus was instrumental in the creation of PAS. PAS became the first official Islamist political party in Malaya and won a seat in the 1955 federal election.

1959: This is the first general election in the newly founded country, Malaya. The 1959 election is important in at least two ways: the reorganization of PAS prior to the election and the turnaround of UMNO’s electoral strategy to combat PAS’s influence. The electoral setback in 1955 sent PAS leaders back to the drawing board. Realizing the need to reform, PAS revamped its leadership and organizational structure. The second President, Dr. Abbas Elias, stepped down to give way to Dr. Burhanuddin al-Helmy. Under the leadership of Dr. Burhanuddin, PAS expanded its branches and divisions to several states, including Kedah, Terengganu and Malacca. The party machinery was also fully utilized with the mobilization of a women’s wing and party newsmagazines. The Alliance led by UMNO suffered a major setback in the 1959 election.³⁵

³⁵ Ibid. P153.

Major takeaways: Although there are various theories of why the Alliance's share of votes dropped from 81% to 51.8%, the failure to compete with PAS on the Islamic front was a swing factor among some of the Malay-Muslim community. UMNO recognized the fact that they could not afford to let PAS monopolize Islamic discourse. Since then, UMNO began to compete with PAS on the Islamic turf. Dr. Farish Noor calls this the beginning of the Islamization race. Also, this election suggests that electoral competition had an effect with a delay. UMNO had to first lose votes to learn that Islam is a political currency they cannot neglect, prompting them to compete on Islamic grounds. As a result, PAS and UMNO engaged in religious outbidding throughout the successive elections after 1959.

1964: The second general election took place in the midst of two whirlpools. The formation of Malaysia led to the Indonesian Confrontation which increased the hostility between the two countries. This led to the disadvantages of Islamists and pro-Nusantara (those in favor for uniting Malaysia and Indonesia) politicians in both countries who were seeking to unite the Malay Archipelago against the imperialist forces. Meanwhile, Singapore's Operation Cold Store very much had an effect in Malaysian politics too. The crackdown on any individuals and parties deemed to be pro-Communist, pro-Indonesia, or leftist ideologues crippled the leftist parties in Malaysia. The leader of PAS, Dr. Burhanuddin, was arrested shortly after the elections under the pretext of being pro-Indonesia and sabotaging his own country. Thus, under a combination of such crackdowns, media control, and vigorous campaigning, the Alliance led by UMNO won 58.5% of the votes and (thanks to the first-past-the-post system) 85.6% of the seats.³⁶ PAS's influence remained checked in Kelantan, Terengganu, Perlis, and Kedah (in that order).

Major takeaways: This election in itself did not witness a sudden competitive battle over Malay-Muslim votes, as one might expect after UMNO was trounced on that ground in the previous

³⁶ Ibid., P178.

election. This is because this election was overshadowed by the merger issue. The Malaysian merger occurred just a year before the election. Ultimately, the 1964 election is significant due to its repercussions on the political landscape in the long run. The ban imposed on leftist parties and detention of several prominent leaders without trial led to the extinction of several parties. But it paved the way for other existing political parties to occupy the vacuum and also provided the catalyst for the formation of new political parties. The crippling of the left meant that the opposition would be dominated by two groups: DAP among the non-Muslims, and PAS among the Malay-Muslims. Thus, the Islamist party became the only viable alternative for the majority Malays.

1969: This ill-fated general election will always be remembered as the backdrop to the May 13 riots. However, what is important to our studies are two developments that are rarely noticed and which took place prior to the election. One, the government had established the National Council of Muslim Affairs.³⁷ This was the first concrete step towards centralizing Muslim and Islamic affairs under the Prime Minister's Department. The second event is the International Islamic Conference in which Malaysia played host. However, the Alliance still fared very badly in the election. They took home a meagre 44.9% of votes and 51.4% of the seats. The two big winners were the Democratic Action Party (DAP) and the Pan-Malaysian Islamic Party (PAS). The Islamist party had not only increased its seats in the northern states, but also made inroads in Perak, Selangor, Perlis, and Malacca, as well as defeated three UMNO heavyweights.

Major takeaways: These two developments (the establishment of the National Council of Muslim Affairs and the International Islamic Conference) were promoted as signs of how the government had succeeded in promoting the interests of Islam and Muslims and represented the first real effort towards the Islamization of the state. Also, Dr. Farish Noor noted that this

³⁷ Ibid. P187.

election shaped the political landscape for the next three decades (until Reformasi). From then on, Malaysian politics was divided along the lines of three camps: the UMNO-dominated Alliance coalition of conservative parties, the Chinese-dominated leftist opposition led by the DAP, and the Islamists of PAS.³⁸ After the election, significant changes took place within UMNO. The May 13 tragedy was bound to change the fortunes of Malaysian politics. The internal power struggle within UMNO led to the forced resignation of Tunku Abdul Rahman, and under the leadership of the new President, UMNO took charge and re-emerged as the dominant player to establish the Barisan Nasional.³⁹

1974: This is the first post-May 13 general election and the one in which the Barisan Nasional coalition made its debut. The Islamist party, PAS, contested as part of the ruling Barisan Nasional (BN) coalition. BN won 60.7% of the votes and 87.7% of the seats in this general election. In the absence of PAS as an Islamist opposition, the DAP, SNAP, and the Malay leftist parties made up the opposition front.⁴⁰ PAS did win one additional seat compared to the previous term, but its share of votes in its natural constituencies dropped as its northern base voters registered their disapproval of PAS joining the Barisan Nasional. PAS also faced pressure from the fact that they are reduced to a junior partner in Barisan Nasional due to their seat tally (14) versus UMNO's (62). They also had to govern Kelantan in a coalition with UMNO, compared to the past in which they had governed the state by themselves. For the first time, this election also saw the emergence of urban, middle-class Islamic activists and organizations. Groups like the Muslim Youth Movement of Malaysia (ABIM), Darul Arqam (a religious sect),

³⁸ Ibid., P194.

³⁹ Barisan Nasional was formed after the May 13 tragedy. Tun Abdul Razak extended the invitation to all major political parties to form a grand coalition to govern the country. For details, see Cheah Boon Kheng (2002). *Malaysia: The Making of a Nation*. Institute of Southeast Asian Studies. p147–148.

⁴⁰ The backlash was especially obvious in PAS's previous strongholds such as Kelantan and Terengganu. In Terengganu, the Malay leftish PSRM won 30% of the votes. Ibid., P269.

and Islamic Representative Council (IRC) adopted Islamic-oriented approaches to political and social life and acted as pressure groups on both the government and opposition.⁴¹

Major takeaways: The growing dissatisfaction about the UMNO-PAS project ultimately culminated in the 1977-1978 fallout. This is the only general election in which PAS and UMNO were on the same side. Later on, PAS leaders would point to this period as proof that UMNO was not sincere in implementing Islamic policies and was merely using PAS. The two parties returned to religious outbidding in the following election. Dr. Chandra Muzaffar describes these groups' emergence as part of the urban-industrial society.⁴² In particular, ABIM will play an increasingly prominent role in electoral politics through the 1980s as its leaders will soon be co-opted into PAS and UMNO. ABIM leaders became the next batch of influential figures who championed the Islamization of the state through activism and politics.

1978: Under new Prime Minister Tun Hussein Onn, the Barisan Nasional won 131 out of 154 seats with 57.2% votes and 84.4% seats. The UMNO-PAS project had ended in 1977 due to the Menteri Besar crisis.⁴³ PAS was split into two camps and the splinter group, BERJASA, teamed up with UMNO during this election and wrestled the state of Kelantan from PAS. The dismal performance by PAS in this election led to the resignation of Asri Muda and the takeover by the *ulamas*. UMNO and PAS once again became bitter rivals. At one point, Tun Hussein even tried

⁴¹ Refer to Muzaffar, Chandra. "Islamic Resurgence in Malaysia." (2014), and Shamsul, Amri Baharuddin. "Religion and Ethnic Politics in Malaysia: The Significance of the Islamic Resurgence Phenomenon." *Asian Visions of Authority: Religion and the Modern States of East and Southeast Asia* (1994): p99-116.

⁴² Ibid.

⁴³ For details, see Jaffar, Kamarudin. "Malay Political Parties: An Interpretative Essay." *Southeast Asian Affairs* (1979): p211-220.

to ban the usage of Islam as a name on any organization or product.⁴⁴ This attempt was ostensibly done to curb the growing popularity of PAS, UMNO's major rival in electoral politics.

Major takeaways: PAS's short venture with UMNO bitterly ended with the party split in half and the loss of Kelantan, the party's crown jewel. PAS won only five federal seats, eight lower than the previous tally. Throughout this period, PAS was seen as having lost both its Islamic credentials and electoral seats. The bitter end to the UMNO-PAS project all but ensured tense rivalry to compete for Malay-Muslim votes in the next elections. It wasn't until three decades later that the possibility of a unity government between UMNO and PAS was proposed again.

1982: This was the first post-Iranian Revolution election which happens to also be Dr. Mahathir Mohamad's first election in Malaysia. This election was the catalyst for a series of Islamization projects.⁴⁵ Barisan Nasional won 132 out of 154 seats (85.7%) with 60.54% of the votes. PAS is back in the fold as an opposition party. The Islamist party did not fare well and this turned out to be Asri's last election. Later in the year, he was forced to resign by the *ulama* faction in the party to make way for Yusof Rawa.⁴⁶ PAS soon underwent major organizational and principle changes. The structural reforms, especially the introduction of the Majlis Syura Ulama, ensured that the *ulama* (religious scholar) faction would dominate the leadership lineup of the party. UMNO too took a turn towards the Islamic side. Anwar Ibrahim was persuaded to join UMNO

⁴⁴ If the ban were to be effective, all organizations would cease to be able to use Islam in their names. Though it was promoted as a general rule, it was well-known that PAS was the target and UMNO was trying to drop the "Islam" from its name. The ban was not implemented. Refer to Farish Noor, *Islam Embedded: The Historical Development of the Pan-Malaysian Islamic Party PAS (1951-2003)* (Kuala Lumpur: Malaysian Sociological Research Institute, 2004), P293.

⁴⁵ To see how the Iranian Revolution brought a surge of political Islam activists and Islamization in Malaysia, see Bakar, Mohamad Abu. "Islamic Revivalism and the Political Process in Malaysia." *Asian Survey* (1981): p1040-1059.

⁴⁶ Yusof Rawa is also the former Malaysian ambassador to Iran while PAS was still within the Barisan Nasional government and he was there to witness the stages of the Iranian Revolution,

and he contested as an UMNO candidate in this election. Anwar's recruitment boosted the Islamic credentials of UMNO while the rise of the ulama faction and 'ABIMisation' of PAS both raised the stakes of the Islamization race.⁴⁷

Major takeaways: The 'Islamic' factor is now taken seriously by both parties. UMNO recruited Anwar and his supporters because they believed that he could boost their Islamic credentials. This is an example of how the establishment readily co-opted Islamists when it is helpful to them in terms of electoral politics. Anwar was the face of UMNO's Islamic legitimacy and he went around giving *ceramah* (a political speech or rally) to praise and justify the government's actions using Islamic terms. Right before this election, the government under the new leadership of Dr. Mahathir announced the establishment of the International Islamic University Malaysia (IIUM). PAS' leader, Hadi Awang, made a statement in which he declared that UMNO is *kafir* (infidel). "Amanat Hadi" (Hadi's Mandate), as it soon became known, was a damnation of UMNO's seemingly un-Islamic policies. What is interesting is that the counter made by UMNO also took the form of Islamic language. UMNO politicians were quick to point out that Hadi engaged in the practice of *takfir*, a form of excommunication in which one Muslim accuses another of apostasy, and that PAS itself was an Islamic fundamentalist party versus the moderate Islam practiced by UMNO. This results in a media warfare between the two parties in what is popularly remembered as the period of "kafir-mengkafir" (the practice of trying to excommunicate each other as infidels or deviants).⁴⁸ The Islamic currency is gaining momentum.

1986: Barisan Nasional won 148 out of 177 seats (83.6%) with 57.28% votes. UMNO itself received 31.06% votes and 46.9% seats. By this time, the Islamization race had gathered huge

⁴⁷ Farish Noor, *Islam Embedded: The Historical Development of the Pan-Malaysian Islamic Party PAS (1951-2003)* (Kuala Lumpur: Malaysian Sociological Research Institute, 2004), P349.

⁴⁸ Ibid., P368.

momentum. UMNO and PAS were fighting Islam with Islam. Dr. Mahathir's UMNO was not going to allow PAS to monopolize the discursive contest, so the UMNO-led government initiated state-orchestrated Islamization programs. The Islamic language of "moderate UMNO" versus "fanatic PAS" was blasting through state-controlled media and helped spread UMNO's "moderate" version of Islam.⁴⁹ The election took place after the 1983 constitutional crisis, where PAS leaders like Mat Sabu were arrested under the Internal Security Act (ISA), and the Memali incident.⁵⁰ Malay-Muslim politics was going through a turbulent time and thus, the 1986 election was laden with religion as a major point of contestation. Immediately after the election, in 1987, the UMNO-led government held the country's first conference on religious extremism, and PAS empowered the Islamists within the party by introducing Majlis Syura Ulama (Shura Council of Ulama) and Mursyidul Am (Spiritual Advisor). According to Farish Noor, the take-over of PAS by *ulamas* was complete.

Major takeaways: On both fronts of the political divide, we see increasing trends toward Islamization in the midst of intense electoral competition. On the government side, a number of important developments that occurred prior to the election actually led to the Islamization of the state. A Pusat Penyelidikan Islam (Islamic Investigation Center) was created to monitor and police the spread of 'deviationist' teachings.⁵¹ Bank Islam Malaysia was launched in 1983, as well as a host of other Islamic initiatives.⁵² The state became the primary determinant of the

⁴⁹ Ibid. P91.

⁵⁰ This incident occurred in a village in Memali, Baling in the state of Kedah. Acting under the order of the Prime Minister and Home Minister, 200 policemen laid siege to the village houses occupied by an Islamic sect of about 400 people led by Ibrahim Libya. For details, see Abdullah, Kamarulnizam. "National Security and Malay Unity: The Issue of Radical Religious Elements in Malaysia." *Contemporary Southeast Asia* (1999): p261-282. And also, Hamid, Ahmad Fauzi Abdul. "Islam and Violence in Malaysia." (2007).

⁵¹ Ibid., P375.

⁵² Ibid., P377.

dominant discourse on Islam.⁵³ On the opposition side, PAS always had the Dewan Ulama (Ulama Council) as a consultative body, but now with the creation of Majlis Syura Ulama (Shura Council of Ulama), they were in position to determine party policies, orientation, and trajectory. The creation of the Mursyidul Am (Spiritual Advisor) position was also a significant addition because the Spiritual Advisor is above the elected president himself.

1990: This election took place with the Gulf War and 1988 UMNO crisis on the backdrop. PAS joined forces with a new political party called Semangat 46 (the Spirit of 46', a splinter group from UMNO led by the former Finance Minister, Tengku Razaleigh Hamzah. The party name symbolizes 1946, the year in which UMNO was founded).⁵⁴ They formed a political alliance, the Angkatan Perpaduan Ummah (Muslim Unity Movement). They won Kelantan and Nik Aziz became the Menteri Besar/Chief Minister. This was the first time in Malaysian history that an *ulama* held such a high ranking official position. Soon after, the Nik Aziz administration and the Kelantan State Assembly passed the Kelantan Shariah Criminal Code (II) in November 1993. Those who withheld their support for the bill were brushed off and were even labeled as committing apostasy. The state-led Islamization continues with the creation of Islamic institutes such as the Malaysian Institute of Islamic Understanding (IKIM) and the International Institute of Islamic Thought and Civilization (ISTAC).⁵⁵

Major takeaways: Religious outbidding, the Islamization race, and state-driven Islamization continued with the creation of Islamic institutes such as the Malaysian Institute of Islamic Understanding (IKIM) and the International Institute of Islamic Thought and Civilization (ISTAC).

⁵³ Nair, Shanti. *Islam in Malaysian Foreign Policy*. Vol. 10. Routledge, 2013., P41.

⁵⁴ Singh, Hari. "Political Change in Malaysia: The Role of Semangat 46." *Asian Survey* (1991): 712-728.

⁵⁵ Farish Noor, *Islam Embedded: The Historical Development of the Pan-Malaysian Islamic Party PAS (1951-2003)* (Kuala Lumpur: Malaysian Sociological Research Institute, 2004), P487.

A string of post-political crisis developments took place after the 1988 Ops Lalang (Weeding Operation, a major crackdown on political dissidents under the pretext of national security).⁵⁶ The 1988 constitutional amendment act that upgraded the power and status of Sharia Courts have had lasting repercussions for the status of Sharia Courts and gave legitimacy to the claim that Malaysia is an Islamic State. Years later, it would be the main contention point in controversial court cases which we will discuss in the next section. Operasi Kenari (Kenari Operation, another crackdown on ostensibly deviant Islamic sects) was full of references to the mujahideen (jihadists or warriors fighting for Islam) and holy terror.⁵⁷ This election also saw the beginning of the Nik Aziz administration which, for the first time, passed Islamic laws at the state level. Before the rise of Nik Aziz, no religious figure had ever become the head of a government in Malaysia. The state of Kelantan under Nik Aziz is the epitome of the Islamization of the state (albeit at the state level only).

1995: The Malay political landscape was bitterly contested in the early 1990s following the Hudud Bill controversy, in which the state of Kelantan governed by PAS tried to push for the implementation of hudud laws (a class of punishment for religious crimes under the Sharia laws).⁵⁸ Barisan Nasional won 65.2% of the votes and 84.4% of the seats, while Semangat 46 and PAS won a mere six and seven respectively. APU's 13 seats were no match for UMNO's 89 seats, let alone the 162 seats held by the coalition in total. The fact that Malaysia sent help to the Bosnian Muslims did boost Dr. Mahathir's image in the eyes of Muslims around the world.

⁵⁶ Jomo, K.S., "Race, Religion and Repression: 'National Security' and the Insecurity of the Regime," in *Tangled Web*, 6; Means, Gordon, *Malaysian Politics: The Second Generation* (Singapore: Oxford University Press, 1991).

⁵⁷ Aslam, Mohd Mizan. "The Thirteen Radical Groups: Preliminary Research in Understanding the Evolution of Militancy in Malaysia." *Journal of Southeast Asian Studies* 14, no. 1 (2010).

⁵⁸ Kamali, Mohammad Hashim. "Punishment in Islamic law: A Critique of the Hudud Bill of Kelantan, Malaysia." *Arab Law Quarterly* 13, no. 3 (1998): 203-234.

Back home, Anwar Ibrahim was now the Deputy Prime Minister. His wife was the first among the cabinet members' spouses to don the *tudung*, a headscarf covering the hair, ears, neck while leaving only the face exposed.

Major takeaways: Hudud and the Islamic discourse by PAS brought about the sacralization of politics. Politics was then not just about material comfort, but for implementing God's words. By this time, ordinary Malaysians have taken to the skull cap (for the men) and *tudung* (for the ladies). If the progress of political Islam can be measured by its symbols, there is no doubt that it has gained more currency than ever before. Semangat 46 was disbanded and PAS was left as the sole Malay Muslim opposition party.

1999: This is a historic moment in Malaysian history. Anwar was sacked from his post and sentenced to jail on dubious charges of corruption, abuse of power, and sodomy. The Asian financial crisis combined with the Reformasi movement all but ensured that this would be the most tense election since 1969. Opposition parties were quick to take advantage of the situation and formed the Barisan Alternatif on 24 November 1999. Leaders of PAS, DAP, PRM (Parti Rakyat Malaysia, or the Malaysian People's Party), and Keadilan signed a common manifesto.⁵⁹ As a result of the internal split within UMNO, the Malay votes were divided. Anwar's supporters thronged to form a new party, but PAS was the biggest winner with 27 parliamentary seats and 98 state seats, the most ever in the party's history. But sometimes, a political party can be doomed by events far away. An event not of their making but one that triggered the party's reaction will undo the influence they earned in this election.

⁵⁹ Lim Kit Siang, *BA and the Islamic State*, Petaling Jaya: Democratic Action Party, 2001, p.ii.

Major takeaways: PAS became the biggest opposition party, and the Islamic party gained national prominence at last. While it was previously based in Kelantan and had influence in northeastern states, PAS now extended its influence all over the peninsula through electoral politics and the formation of informal alliances and coalitions.

2004: PAS's show of support for the Taliban following the United States' involvement in Afghanistan was not a strategic political move. Coupled with the publication of "Dokumen Negara Islam," PAS all but alienated moderate Muslims and non-Muslims. In Terengganu, Menteri Besar Hadi Awang tabled the hudud bill. UMNO too had a hand in raising the stakes in the Islamization race. Under new Prime Minister Abdullah Ahmad Badawi, the government introduced Islam Hadhari (Civilizational Islam, a theory of government based on the principles of Islam). Farish Noor said PAS's rise would not have been possible without the state-sponsored Islamization. All things considered, PAS stood to gain the most due to the shift towards a more Islamic-oriented national politics.⁶⁰

Major takeaways: Outbidding and the Islamization race sped up on both sides. PAS attempted to pass the Hudud Bill in Kelantan and Terengganu. State-led Islamization intensifies with laws such as the Islamiah Aqidah Protection Bill 2000 in the state of Perlis, which allows for the Sharia court to prosecute deviationists and detain offenders in a rehabilitation center for up to a year.⁶¹

⁶⁰ Farish Noor, *Islam Embedded: The Historical Development of the Pan-Malaysian Islamic Party PAS (1951-2003)* (Kuala Lumpur: Malaysian Sociological Research Institute, 2004), P751.

⁶¹ Othman, Noraini. "Islamization and Democratization in Malaysia in Regional and Global Contexts." *Challenging Authoritarianism in Southeast Asia*, London: Routledge Curzon (2003): p117-144.

2008: This historic election shattered the Barisan Nasional's two-third majority for the first time in nearly four decades and paved the way for a two-party system in Malaysia. Dubbed the "political tsunami," this election led to the formation of an informal alliance among the three major opposition parties, PAS, DAP and PKR. Interestingly, for the second time running, coalition politics gave PAS a resounding victory at the polls. From a party which is based in Kelantan and Terengganu, the party is now part of five state governments (Kedah, Perak, Selangor, Penang, and Kelantan) and has three Menteri Besar (Chief Ministers). This election also marked the first time that PAS fielded a non-Muslim female candidate. However, not all factions within PAS were comfortable with the coalition. Things came to a heated debate in the 2009 party assembly when the progressive faction (dubbed the "Erdogans") was pitted against the conservative *ulama* faction. UMNO meanwhile was shell-shocked following its worst electoral performance in decades. In 2009, Prime Minister Abdullah Ahmad Badawi stepped down to give way to his deputy, Najib Razak. UMNO-BN dangled the unity government proposal to PAS, and PAS's conservative faction was working to propose a unity government with UMNO in Selangor, but their efforts were stalled when Nik Aziz publicly rebuked the proposal.

Major takeaways: Electoral politics is part and parcel of a democracy and a semi-democracy. In this election, there is evidence of how a (constricted) democratic process can be advantageous to political Islam. Elections provide an incentive for coalition politics such as the formation of Pakatan Rakyat. It is through this coalition that the Islamist party extended its grip to several states. It formed five state governments with its partners and cemented its place as a party with nationwide appeal. If it wasn't for coalition and electoral politics, PAS would not have been able to expand its reach beyond its home base in Kelantan. After the election, when UMNO was weak, talks of a unity government between UMNO and PAS surfaced again, reminiscent of the post-1969 election in which cooperation between UMNO and PAS was first mooted.

2013: For the first time, an opposition coalition went head to head with the ruling coalition and won the popular vote.⁶² Although Pakatan Rakyat won 50.87% of the popular vote compared to Barisan Nasional's 47.38%, it fell far short of forming the federal government because it only gathered 40.09% of the seats versus Barisan Nasional's 59.91%. Within PAS, some members of the progressive faction lost in the election and were sidelined by the conservative faction after the election. There was a stronger speculation of the UMNO-PAS unity government proposal. The federal government and the Kelantan state government even formed a joint technical committee to study the possible implementation of Hudud laws, something which the past administrations never did. Former premier Dr. Mahathir has attributed the hudud debacle as testament to the fact that current Prime Minister Najib is in a weak position, thus giving the opposition PAS the opportunity to bring up the hudud issue and bargain with the federal government in return for cooperation.

Major takeaways: The vulnerability of UMNO led to the talk of a Unity Government with PAS once again. PAS, who lost Kedah in this election, and UMNO, which failed to regain the coveted two-thirds majority, were both on shaky ground. Electoral politics involves both competition and cooperation. While the two parties competed most of the time, the UMNO-PAS relationship is at an all-time high and cooperation between the two parties for electoral gains seemed likely after this election. The recent passing of the late Tok Guru Nik Aziz had removed the biggest critic of the UMNO-PAS unity government proposal. Also, at the time of writing, a series of events is raising the first real possibility of the Islamic Hudud Bill to be passed. If the UMNO-PAS unity government (which is also another form of coalition politics) succeeds, it will be the biggest victory for political Islam (and Islamization) in the history of Malaysia. They are the two biggest Malay-Muslim parties and if they unite "for the sake of Islam" as demanded by conservative

⁶² Farish Noor, *The Malaysian Islamic Party PAS 1951-2013: Islamism In a Mottled Nation*. Amsterdam: Amsterdam University Press, 2014, P215.

quarters, a string of Islamic legislation is sure to be passed. In times of weak political stability, we also see an increasingly prominent and authoritarian role of state religious authorities.

Comparative analysis and summary: To summarize, we have seen an overview of all fourteen elections in Malaysia. Islam has always been a salient issue - sometimes more salient in one election than the other. A few notable comparisons can be made. For example, in 1959, when UMNO's share of the Malay-Muslim votes dropped, UMNO realized that it had to step up the rhetoric laden Islamic references to attract voters. Knowing that Islam is an important part of voters' personal identity, UMNO cannot afford to let PAS monopolize the Islamic political discourse or else risk alienating a segment of Malay-Muslim voters who see Islam as the right path in politics. Unlike the 1955 and 1959 elections, the two parties often compete for Islamic credentials in successive elections after that setback, with UMNO proposing a string of Islamic legislation and institutions and PAS countering by intensifying its Islamic rhetoric in speeches and party platforms, thus raising the stakes in religious outbidding and resulting in the Islamization of the state.

In 1974 and 2015, we see a period of cooperation between both parties. In the former, they contested in the election as part of a larger coalition and in the latter, the PAS state government and UMNO-led federal government formed a joint committee to study and push for the implementation of Hudud laws. I argue that electoral politics is a catalyst for this cooperation because during the elections that precede both periods (the 1969 and 2013 elections), UMNO-BN lost their two-thirds majority and had needed to regain strength. PAS too has an incentive to cooperate with UMNO, especially in 2015. The conservative faction within the Islamist party was displeased with the perception that they have to 'tone down' or moderate their stance on certain issues because they are now part of Pakatan Rakyat. Coalition politics did moderate PAS's image for a certain time, but the conservative faction was not happy with it and saw this as an

act of compromise. UMNO saw this as a sign and reacted by throwing a bait last year when an UMNO minister said it could consider the possibility of implementation of hudud laws: a long-held aspiration by the conservative faction in PAS. Thus, electoral politics provides an incentive for both parties to cooperate in times of need and thus, we are able to see how both competition and cooperation (as part and parcel of electoral politics) facilitates political Islam and Islamization.

Competition between both parties to out-Islamize the other was especially intense from the 1980s through the early 2000s. Influenced by the global surge of interest in political Islam due to the Iranian Revolution, the two parties were constantly engaged in a tug of war over Islamic supremacy. UMNO under Tun Dr. Mahathir Mohamad created the first international Islamic university in the country, empowered the roles and supervision of state Islamic authorities, and (as we will see later) amended the Constitution to give greater power to the Sharia court. PAS played along by attacking UMNO's policies as mere cosmetics, discrediting UMNO leaders' Islamic credentials, and dreaming of setting up a true Islamic State. This is particularly evident after the *ulama* faction took over the party leadership after 1978. One more evidence for how electoral politics facilitates the discourse of political Islam occurred in 2001. UMNO had just lost a huge part of the Malay-Muslim vote in the 1999 election following the sacking of Anwar Ibrahim and the Reformasi movement. Those votes swung to PAS. A year and a half later, Dr. Mahathir declared that Malaysia is already an Islamic state. He attempted to wrestle that "Islamic state" bullet away from PAS (the Islamist party has always been adamant that their top priority is setting up an Islamic state). PAS countered that Dr. Mahathir's claim is not true and eventually both parties drafted official party and government documents to back up their claims (or more precisely, their versions) of the Islamic state. Later, Dr. Mahathir stepped down to give way to Tun Abdullah Ahmad Badawi, whose Islamic credentials are not disputed even by PAS. The new leader's arrival was greeted with a sense of euphoria and hope, and in combination

with his Islamic credentials and his proposal of Islam Hadhari (Civilizational Islam), the new leader managed to regain a majority of the Malay-Muslim votes in the following 2004 election.

It is clear that the Islamization of the state is driven by electoral politics. Malay Muslim political parties competed and cooperated to obtain the incentives provided by electoral politics (vote and popular support). The increasing currency of Islam in the political arena ensures that the political factor will always be key in pushing for greater Islamization of Malaysian society. Until and unless we understand how these processes occur, we will not be able to understand the past or predict the future of political Islam in Malaysia and elsewhere in Muslim-majority countries.

The Second Factor: The State of the Judiciary following the 1988 Amendment

The second major factor which facilitates the tide of Islamization has been developments within the judiciary. At the beginning, the judiciary of Malaysia is heavily influenced by British common law. This shouldn't be a surprise since the Federal Constitution was drafted based on the secular Westminster Parliamentary system. However, Article 3 (1) of the Constitution mentions that Islam is the religion of the Federation; but other religions may be practiced in peace and harmony in any part of the Federation.⁶³ There is a parallel system of state Sharia courts which has limited jurisdiction over matters of state Islamic (Sharia) law. Accordingly, the Sharia courts have jurisdiction only over matters involving Muslims, and can generally only pass sentences of not more than three years imprisonment, a fine of up to RM5, 000, and/or up to six strokes of

⁶³ See for example, Fernando, Joseph M. "The Position of Islam in the Constitution of Malaysia." *Journal of Southeast Asian Studies* 37, no. 02 (2006): 249-266.

the cane.⁶⁴ One effect of having these hybrid and parallel court systems is that a confusion of jurisdiction can arise out of some cases involving Muslims and non-Muslims. Cases such as child custody, apostasy, conversion, and even funeral burials routinely bog the headlines, and the media is flooded with the civil vs Sharia debate.

The 1988 constitutional amendment further exacerbated the situation. Electoral politics played a significant role in this amendment which effectively expanded the jurisdiction of Sharia courts and gave Islam a greater leverage in public affairs by providing an incentive to amend the Constitution. Electoral politics influences the state of the judiciary, which then became a crucial factor that strengthens the Islamization of the state in Malaysia. In this section, we will see how the constitutional amendment and numerous court rulings weakened the secular civil court's influence and by empowering the jurisdiction and status of the Sharia court, helped to entrench the Islamization of the state.

Originally intended to get rid of the confusion regarding jurisdictional boundaries, the amendment to Article 121 (A) basically cemented the division between civil and Sharia courts. By essentially declaring that the civil court has no jurisdiction over matters pertaining to Islamic affairs and those that fall under the jurisdiction of Sharia courts, the amendment effectively empowered the Sharia court to an equal standing with the secular courts. Even the highest court in the country, the Federal Court, has no jurisdiction that allows it to overrule, appeal, or constrict the decisions made by Sharia courts.

This wasn't the case when the country was founded. The constitution spelled out the roles of Sharia courts and they were limited in scope and application. The secular Federal Court was

⁶⁴ Jeong Chun Hai, & Nor Fadzlina Nawi. (2007). *Principles of Public Administration: An Introduction*. Kuala Lumpur: Karisma Publications.

designed to be the highest judicial authority in no uncertain terms. But in 1988, two very significant amendments were made to the Federal Constitution. The material part of clause (1) of Article 121 used to say:

“... the judicial power of the Federation shall be vested in” the High Court. After 1988, Article 121(1) said that the High Court “shall have such jurisdiction and powers as may be conferred by or under federal law”.

Thus, before the 1988 amendment, all courts in Malaysia derived their powers and authority from the Constitution. Now, the courts are only meant to have those powers which Parliament decides to give them. The judiciary was in this way made subservient to Parliament, the legislative branch which has hitherto been dominated by the ruling Barisan Nasional.

According to the Malaysian Bar Council, the 1988 amendment meant that judges now could only act according to laws made by Parliament, thereby essentially making the judiciary subservient to the legislative branch.⁶⁵ Its chairman claimed that if the original Article 121 was reinstated, it would have allowed for the separation of powers and ensured that all acts are consistent with the constitution. The present state effectively diminishes the separation of powers since the judicial, legislative, and executive branches of the government are all controlled by the same party.

The second significant amendment in 1988 was the inclusion of a new clause (1A) into Article 121 that states,

⁶⁵ "Bar Wants 'original Article 121' Reinstated." *Free Malaysia Today*, March 10, 2012.

“The courts referred to in Clause (1) shall have no jurisdiction in respect of any matter within the jurisdiction of the Sharia courts.”

According to a member of the Malaysian Bar, “Sharia courts are the courts created by State Assemblies to administer certain Islamic laws. The Constitution says Sharia courts can only have jurisdiction “over persons professing the religion of Islam” and only in respect to certain specific matters of Islamic law, listed in the Constitution.”⁶⁶

Therefore at the foundation of the country, the Constitution recognized the separation of power, and the judiciary is by and large secular. The Sharia courts were not meant to possess equal standing with the secular courts, especially the Federal Court. The argument that the Constitution gives priority to the Sharia courts due to the fact that the Constitution recognizes the supremacy of Islam and Islamic laws (as claimed by some quarters) is thus fallacious. The role and status of Sharia courts were clearly spelled out and limited in the original Constitution. It was only after the 1988 amendment that we witness the expanding scope and influence of the Sharia courts. Since then, conservative groups have been using the amended Article 121 as testament to the “fact” that the supremacy of Sharia courts cannot be challenged.

How does this affect the process of Islamization? For one, it gives credence to the claim that Islamic laws, not secular laws, are the supreme authority of the land since the Sharia courts are virtually unchallengeable. Islam permeates the way of life in the society since more laws and policies are shaped to dictate the boundaries of appropriate behavior, such as close proximity between different sexes, failure to perform Friday prayers, and the (lack of) freedom of religion for those who wish to convert out of the Muslim faith.

⁶⁶ "Article 121(1A) - What Does It Really Mean?" *The Malaysian Bar*. December 11, 2006.

The most vivid and wide-ranging repercussion of this change can be seen in numerous court cases in which there is a dispute regarding the thorny issues mentioned above. For example, every year there seems to be at least one case of a spouse who converted his/her children to Islam without the knowledge of the other spouse. In such instances, the (new) Muslim convert spouse would seek to apply for child custody through the Sharia court and the non-Muslim spouse would seek remedy under the secular civil court. Some of these controversial cases, especially those involving freedom of religion, continue to polarize the society and spark intense debates. We will examine a few landmark court cases and their ripple effects upon the larger segment of the society.

Controversial court cases and rulings seen in favor of Islamization and Sharia Courts

Lina Joy: This is the infamous case that gathered nationwide attention several years ago, especially when the Federal Court reached its verdict in 2007. It was argued that whichever way the decision went, it would have wide ranging social and legal implications that “affect one’s constitutional freedom to choose one’s religion as well as who one can marry, especially for those who want to renounce Islam and for people who convert to Islam but later want to revert to their former religion.”⁶⁷ What was at stake is essentially whether conversion is a religious or constitutional matter.

Lina Joy is a Malay convert from Islam to Christianity. Born Azlina Jailani, she managed to get the National Registration Department to change her name to Lina Joy after her conversion.

⁶⁷ Koshy, Shaila. "Crucial Decision in Lina Joy Case." *The Star*, May 30, 2007.

However, she was told that she could not remove the “Islam” status in her identity card without approval from the Sharia court. The NRD claimed that if she wishes to change her religion from Islam to Christianity, she would first have to obtain approval from the Sharia court. Lina Joy brought this to court in 1999. The judicial saga ended eight years later when the Federal Court rejected her appeal.⁶⁸

The case is significant in many ways. Firstly, it pushed the secular vs sharia debate to the forefront. Roundtable discussions and media coverage of the issues at stake were extensive, heated, and controversial, so much so that the Prime Minister had to put a gag order on the issue regarding freedom of religion. Secondly, it elevated the legitimacy of Sharia courts and cemented the dual-law system. Thirdly, it maintained that one has to gain confirmation and approval from the Sharia court before renouncing Islam. Unless this is challenged or overturned in the future, this means that the constitutional freedom of religion is not applicable to those who want to renounce Islam at will. The prosecution argued that the case is not as much about freedom of religion as the process through which one has to go in order to renounce a religion. The court’s findings that one cannot simply renounce a religion at will essentially meant that they agree with the prosecution.

If we were to put all these statements together and put it alongside the Constitution, it seems that even if one is free to choose one’s religion, one is not free to choose it at will. Oxymoron perhaps, but that’s how the judgment went. With rare exceptions, it is almost impossible to obtain approval from the Sharia court to convert out of Islam.⁶⁹ People who wish to do so are

⁶⁸ Unofficial written judgment at the Court of Appeal. The judgments were later re-typed. See: "Lina Joy v Majlis Agama Islam Wilayah Persekutuan & 2 Ors 2005 [CA]." *The Malaysian Bar*. September 24, 2005.

⁶⁹ The rare exception usually involves an individual who has lived his or her whole life as a person of a different religion, and only wants to change the official documents to

afraid of going public in the first place because of fear of retaliation and orchestration, including punishment under apostasy laws. The punitive laws vary according to state because most Islamic affairs come under the jurisdiction of respective states. States pass various punitive laws to combat seemingly deviant, un-Islamic or insulting behaviors. The state of Perlis, for example, passed a law which subjected deviants and apostates to one year of rehabilitation.⁷⁰ Recently, the state assembly of Kelantan attempted to pass the Hudud bill (again) which prescribes the death penalty for apostates.⁷¹

Revathi Massosai: In this case, the individual was born to Muslim converts and given a Muslim name, but she was raised as a Hindu by her grandmother and has always practiced that faith.⁷² However, since her parents were Muslims, she is legally considered a Muslim and is not allowed to change her faith or marry a non-Muslim. When she applied to the court to officially designate her as Hindu, she was detained and taken to an Islamic rehabilitation centre. She was charged with apostasy and detained for 100 days, which was then extended because the authority had yet to successfully “persuade” her to accept Islam.⁷³ This case reinforced the authoritarian nature of the version of Islam practiced in Malaysia. The religious authority was

reflect this fact. Even this request is not always granted. It is very difficult for Muslims to legally change their religion. They have to obtain explicit permission from the Sharia court and this is not usually granted, and they may expose themselves to some punishment for wanting to renounce the faith. Negeri Sembilan is the only state which is relatively lenient on this matter and has granted multiple conversions.

⁷⁰ See for example, Martinez, Patricia A. "The Islamic State or the State of Islam in Malaysia." *Contemporary Southeast Asia* (2001): p474-503., and Anwar, Zainah. "Islamisation and Its Impact on Laws and the Law Making Process in Malaysia." *Warning Signs of Fundamentalism* (2004): p74, and Anwar, Zainah. "Law-making in the name of Islam: implications for democratic governance." *Islam in Southeast Asia: Political, Social and Strategic Challenges for the 21* (2005): p121-134.

⁷¹ Zahid, Syed Jaymal. "Under Kelantan's Hudud, Apostates to Be Executed." *The Malay Mail Online*, March 18, 2015.

⁷² Kent, Jonathan. "Malaysia 'Convert' Claims Cruelty." *BBC News*, July 6, 2007.

⁷³ Theophilus, Claudia. "Malaysian Family Split by Faith." *Al Jazeera*, May 7, 2007.

seen to possess the power to detain a person who wishes to convert out of Islam. The grip of Islam on society (or rather, the grip of the state authority's Islam on society) is virtually unchallengeable, even in courts.

Shamala Sathiyaseelan: This case presents the perfect example of the clash between two distinct sets of laws and judicial courts. The husband converted to Islam and proceeded to convert their children without the consent of the wife. They were separated and jostled for child custody. The civil court granted child custody to the wife, but the husband sent a separate application for child custody to the Sharia court, which granted the custody to him.⁷⁴ The whole case and the children were trapped in a conflict of jurisdiction. The civil court cited the husband for contempt for failing to obey the court order and the Sharia court in turn issued an arrest warrant to the wife for failing to attend the Sharia court hearings. Ultimately, the High Court granted custody to the mother but allowed access to the father and warned the mother against trying to influence the children out of their religion (Islam). The mother took the child and fled to Australia.⁷⁵

M.Moorthy: The man was a well-known hero for being part of the Malaysian team which climbed to the peak of Mt. Everest. But he is now more remembered for the dramatic dispute following his death rather than his lifetime achievements. When the wife of the deceased wanted to claim his body, the hospital refused to release it in accordance with a Sharia court ruling that Moorthy had converted to Islam (without the family's knowledge) before his death, given in response to

⁷⁴ "Justice and Jurisdictions: The Shamala Sathiyaseelan v. Dr Jeyaganesh C Mograrajah (Muhammad Ridzuan) Custody Case." *Aliran*, July 1, 2004.

⁷⁵ Sipalan, Joseph. "Hindu Mum Gains Custody of Children in Latest Conversion Tussle". *The Malay Mail Online*, April 7, 2014.

an ex parte application by the Federal Territory Islamic Religious Council.⁷⁶ She challenged the decision in the High Court, which dismissed her appeal and ruled that they have no jurisdiction to override the Sharia court's ruling.⁷⁷

Other notable cases include Nyonya binte Tahir (Wong Ah Kiu), Tan Cheow Hong, Hilmy Mohd Noor, Nur'aishah Bokhari, R. Subashini, Indira Gandhi, and the ongoing case of Deepa Subramaniam.⁷⁸ All of the cases involve sensitive religious issues like conversion and child custody, and the 1988 amendment to Article 121A has been frequently cited and debated. The amendment was, is, and will continue to be the key point in judicial rulings to give the Sharia court the upper hand concerning these cases by basically absolving the secular courts of any jurisdiction on matters in which the Sharia courts may have jurisdiction, thus elevating the status of Sharia court to that of equal standing with the secular court. There have been some efforts recently to reduce the instances in which these cases arose. For example, Negeri Sembilan proposed a new law which requires a non-Muslim spouse who wants to convert to Islam to first renounce his or her civil marriage in order to prevent disputes over secret conversion and child custody.⁷⁹

The Third Factor: The Expansion of Religious Bureaucracy

⁷⁶ "Mount Everest Climber's Wife Applies To Court To Claim His Body". *Bernama*. 21 December 2005.

⁷⁷ "Muslim Burial for Malaysian Hero." *BBC News*, December 28, 2005. Accessed March 18, 2015.

⁷⁸ Lim, Ishmael. "The Distressing Story of Deepa and Izwan." *Free Malaysia Today*, January 18, 2015. Accessed March 18, 2015.

⁷⁹ "Negeri Sembilan to Enforce New Laws for Muslim Converts – Bernama." *BBC News*, February 15, 2015. Accessed March 18, 2015.

The third factor is the role of the religious bureaucracy. While the various agencies and institutes (which I categorized as the religious bureaucracy) were originally created due to electoral politics, they became more centralized and powerful on their own. I emphasize the expansion of state religious authorities, their influence in lawmaking and policymaking, and their ability to regulate and control the propagation of Islamic affairs among the people.

The religious bureaucracy includes the various states' religious authorities and religious enforcement officers. Some of the more prominent elements of the religious bureaucracy are the Department of Islamic Development Malaysia (JAKIM) and the Selangor Islamic Religious Department (JAIS). Both JAKIM and JAIS are testament to the creation and centralization of Islamic institutions in the country. Centralization is deemed important because it enables the government to regulate, control, fund, moderate, dictate, and coordinate Islamic affairs. JAKIM is a full-fledged federal department and is provided with vast resources and power to be the coordinating agency for the development of Islam, as well as other Islamic matters such as education, training, research and policy consultation.

The claim that many of the religious bureaucracies are created due to electoral politics is supported by the fact that this "Islamic bureaucratization" is originally part of the government's strategy to co-opt Islamic influence and neutralize religion-based political rivals.⁸⁰ However, the religious bureaucracy has burgeoned since its creation and some critics have pointed out that the religious bureaucracy has overstepped its mandated powers.⁸¹ A host of other Islamic agencies and institutions have also been created, upgraded or expanded since the 1980s.

⁸⁰ Mohamad, Maznah. "The Ascendance of Bureaucratic Islam and the Secularization of the Sharia in Malaysia." *Pacific Affairs* (2010): p505-524.

⁸¹ This outrage was particularly poignant when state religious authorities raided churches or confiscated Bibles for fears of propagation to Muslims. Under Malaysian law, it is illegal to convert a Malay-Muslim out of Islam but the Constitution guarantees

For example, the government perceived that there is a need to curb and regulate the development of Islam under proper guidance and has then set up its two of its own bodies, Pusat Islam (Islamic Center) and PERKIM (Malaysian Islamic Welfare Organization), to propagate an official state-sanctioned version of *dakwah* (missionary).⁸² And as discussed in the previous section, the government's move to amend Article 121 of the Constitution effectively upgraded the status of the Sharia court to that of equal standing with the secular court.

In recent times, the religious bureaucracy has also moved to ban the Malay language version of the Bible and disallowed non-Muslims from using the word "Allah" in Peninsular Malaysia. This is done ostensibly to avoid confusion and the possibility of Christian missionaries propagating the religion to Malay-Muslims, but these two instances are evidence that the religious bureaucracy's power has expanded to include regulating the limits of behavior of both Muslims and non-Muslims. Thus, given their ability and willingness to impose the Islamic way of life and supremacy of Islam, their actions further "Islamize" the society.

The empowerment of the religious bureaucracy will be very difficult to be rolled back. It now possesses a life of its own and will continue to grow and exert its influence on the society. These religious bureaucrats, including agencies and state religious authorities, have the power to regulate, supervise, and even punish members of the society who do not follow the state-sanctioned version of Islam. Criticism directing at the expanding scope of these agencies is perceived as an attempt to diminish the status of Islam or worse, insult the religion. Thus, the

freedom of religion and equality under the law. That JAIS raided a non-Muslim premise is a cause for concern, especially when it is seen as encroachment of fundamental rights enshrined in the Constitution.

⁸² Camroux, David. "State Responses to Islamic Resurgence in Malaysia: Accommodation, Co-option, and Confrontation." *Asian Survey* (1996): 852-868.

religious bureaucracy's ability to propagate Islamization of the society is virtually unchallenged most of the time and renders legitimacy to the Islamization of the state.

The Fourth Factor: The Impact of Non-State Actors

Finally, there are the non-state actors such as the Islamist activists, NGOs, and student movements. I argue that they too provide the impetus for political Islam and the process of Islamization, especially when they push for the supremacy of Islamic laws and the Islamic way of life in the public sphere. Islamist activists are influential but often unnoticed stakeholders in the Islamization of the society. Without these non-state actors acting as pressure groups, it will be more difficult to spread the visibility (and supremacy) of Islam in the society or public life. Activists were instrumental in giving birth to the mass mobilization of religious movements and Islamist non-governmental organizations.

Islamist groups include Muslim non-governmental organizations (NGO), student movements, and individuals who are especially influential in demanding for the greater prominence of Islam in policy-making and political discourse after the Iranian Revolution. The successful installment of the theocratic government and Islamic State in the Middle East provided an encouragement for Islamist activists to push for the same reforms, albeit less radical, in Malaysia.

One Islamic student movement is particularly significant. Angkatan Belia Islam Malaysia (Muslim Youth Movement of Malaysia, ABIM) is well known nationwide as a revivalist organization and had its voice heard on most matters concerning public policy during the late

1970s and 1980s.⁸³ At one of its annual conferences, ABIM passed a resolution urging the government to adopt an Islamic solution to solve communal problems and create unity. ABIM was widely seen as a transitional non-political organization and a training ground for future leaders. Though it was perceived to be aligned with the opposition, ABIM leaders eventually ended up on both sides of the political divide. Its former president, Anwar Ibrahim, was recruited to join UMNO in 1982 and instantly boosted the Islamic credentials of UMNO. Other leaders such as Fadzil Noor and Hadi Awang went on to become the sixth and seventh presidents of PAS respectively. This student movement, alongside others like GAMIS (Pan-Malaysian Muslim Student Coalition), provides the platform for future Muslim leaders who seek to incorporate Islam into policies and politics. While ABIM adopts a rational approach to the interpretation and application of Sharia laws, there exist a number of other activist organizations who are fundamentalist in nature, such as Darul Arqam and Jamaat Tabligh.

Some of the more prominent activist groups these days include Ikatan Muslimin Malaysia (Malaysian Muslim Solidarity, ISMA) and PEMBINA (National Islamic Youth Association). They have inter-state presence and nationwide followers. ISMA is a non-governmental organization and while it is not a political party, this NGO has often been in the limelight for making controversial political statements alluding to the supremacy of Islam and advocating political Islam and Malay-Muslim unity. Given their huge following, they have some influence in shaping public discourse especially among conservative Malay-Muslims.

To summarize, the roles of non-state actors such as Islamist activists, NGOs, and student movements are instrumental in facilitating the Islamization of the state and the society. They

⁸³ For details, see Bakar, Mohamad Abu. "Islamic Revivalism and the Political Process in Malaysia." *Asian Survey* (1981): p1040-1059; Anwar, Zainah. *Islamic Revivalism in Malaysia: Dakwah Among the students*. Pelanduk Publications, 1987.

were able to mobilize their members and attract popular support for their activism. Although they are often seen as side-factors, they nevertheless should not be ignored if we really want to comprehend how Islamization takes place in the society. For this reason, I included them into the framework to give a more complete picture to explain the Islamization of the state.

Conclusion

There is a high probability that political Islam will continue to be an important feature of Malaysian politics. Whether the same can be said of other Muslim-majority countries remains to be investigated. However, Muslims hold religion to be a very important part of their personal identity and there is bound to be a political party which appeals to them based on their religious sentiments. Unless and until we have a framework which can explain the rise of political Islam and process of Islamization, we cannot comprehend the past or predict the future of Muslim-majority countries.

In the years following independence, Islam has increasingly gained prominence in Malaysian politics. Its political currency intensified from the 1980s onwards and if the past trajectory is reliable, the trend will only escalate in the future due to the increasingly powerful Islamic authorities and heated debates over the role and status of Islam in the Constitution and public affairs.

While this thesis aims to provide a framework to study the Islamization of the state in Malaysia, it is hoped that the framework can also be studied and applied to other Muslim-majority countries. I incorporated existing literature and my own analysis into a broad framework in this thesis.

My argument consists of four factors: the roles of electoral politics, the judiciary, the religious bureaucracy, and the non-state actors. The first factor is electoral politics, which gives incentives for both competition and cooperation to facilitate political Islam and is most responsible for the Islamization of the state. Political parties attempt to outbid and out-Islamize each other and by doing so, they raise the stake of Islamization and expand the role of Islam in personal, social, and political life. In successive elections, the politics of Islam is a salient issue. We observed how electoral politics provide the incentives for the Islamization race and became the catalyst for other causal factors.

The second factor is the role played by the judiciary. Electoral politics played a significant role in expanding the jurisdiction of Sharia courts and giving Islam a greater profile in public affairs by providing an incentive for the constitutional amendment. While the civil courts have had the power to decide on most civil and criminal cases in the past, the constitutional amendment in 1988 effectively elevated the Sharia court to that of equal standing with the civil court by proclaiming that the civil court has no jurisdiction over any matter related to Islam and Sharia laws. We have looked at a number of high profile controversial cases which have stirred heated debates concerning the status of Islam in Malaysia and these cases reflect the growing Islamization of the state.

The third factor is the expansion of the religious bureaucracy. The state religious authorities now have the power to control and punish members of the society who do not follow the state-sanctioned version of Islam, including the behavior of non-Muslims. The Islamization of the state is proportional to the growth of these religious bureaucrats.

The fourth factor is the significant presence of non-state actors like Islamist activists, NGOs, and student movements. They too provide the catalyst for the process of Islamization, especially when they push for supremacy of Islamic laws and Islamic way of life in the public sphere. Muslim non-governmental organizations (NGO), student movements, and individuals are especially influential in demanding a greater role of Islam in policy making after the Iranian Revolution.

In the future, it is worth exploring whether this framework could be tested and applied to the study of other Muslim-majority countries. Does this framework provide all the necessary and sufficient conditions for the rise of political Islam and Islamization? Are there some other relevant factors which have been left out? These are fascinating questions to be answered. The framework's application to the case study of Malaysia should also be verified by established scholars in the field who are well-versed with the literature to ensure that it has incorporated all the major factors.

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